IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Misc 26181-M of 2007

Date of decision: 17.5.2007

Devinder Singh and another …Petitioners

Versus

State of Punjab and others …Respondents

Present: Mr Vikas Bahl, Advocate, for the petitioners.
Mr Mukesh Kaushik, DAG Punjab.
Mr Tarun Gupta, Advocate for respondents-2 and 3.

S.S. SARON, J.

Reply of Narinder Kumar Bawa, DSP (D), Nawanshahar with additional charge of Sub Division Banga, filed in Court today is taken on record.

The petitioners have filed the present petition under Section 482 CrPC for quashing/setting aside FIR 130 dated 3.8.2000 registered at PS Banga, District Nawanshahar for the offence under Section 420 IPC and all subsequent proceedings arising therefrom, in view of the compromise effected between the parties.

The impugned FIR has been registered on the complaint of Harpal Singh (respondent-2) and Parveen Kumar (respondent-3). It is alleged in the FIR that an amount of Rs 1,30,000/- was taken from the complainant by the petitioners for getting Class-IV job in a government school. However, the petitioners neither helped the complainants to get them the job nor the money was returned, despite the fact that they were asking for the return of the money

for the last 6/7 months. Rather the petitioners threatened the complainants. They had earlier also filed a complaint dated 3.7.2000 but no action was taken.

It is submitted on behalf of the petitioners that the FIR has been registered after a period of 1 year and 3 months. The identity of petitioner-1 has not been indicated and his name has been mentioned as 'Devinder Kumar son of not known'. In this regard, the complainant – Harpal Singh (respondent-2) deposed an affidavit dated 11.5.2001 (Annexure P1) which is to the effect that the name of Devinder Kumar (petitioner-1) was given by him by mistake and he had not taken any money and has nothing to do with the transaction. Thereafter, Harpal Singh (respondent-2) and Parveen Kumar (respondent-3) have deposed two separate affidavits both dated 26.4.2007 (Annexures P2 and P3 respectively) which are to the effect that with the intervention of the respectables of the village and senior citizens, a compromise has been arrived at by each of them of their own free will and without any pressure. Both the respondents-2 and 3, therefore, do not wish to pursue the FIR and have no objection if the same and all subsequent proceedings arising therefrom are quashed.

In terms of the reply filed on behalf of the State by the DSP (D), it is submitted that challan has already been presented in Court and the learned Court has taken the cognizance of the offence and framed charge against the petitioners. The trial is pending before the trial Court and the petition has been filed with a malafide intention and with an oblique motive to delay the proceedings. It is further stated that the petitioners may be put to strict proof of the facts alleged. As regards the alleged compromise and the affidavits, it is stated that no such affidavits have been given to the Police. However, the relationship amongst the petitioners and respondents-2 and 3 is not disputed. The FIR, it is stated has been registered on well-founded allegations.

In the reply filed by respondents-2 and 3, it is stated that with the intervention of the respectables, the parties have compromised the matter. Therefore, no useful purpose would be served in continuing the proceedings qua the petitioners. Therefore, the deponent (respondent-2) has no objection to the FIR being quashed.

Learned counsel for the petitioner has contended that although the compromise has been entered into long back, yet the Police did not file cancellation report. Respondents-2 and 3 have appeared in Court on four occasions. However, the proceedings have not been terminated, although respondents-2 and 3 have specifically informed the Court that a compromise has been effected between the parties. It is submitted that respondent-2 is a handicapped person and cannot freely move about. Therefore, it is contended that in the circumstances of the case and keeping in view that the offence under Section 420 IPC is compoundable with the person cheated, this Court in exercise of its inherent jurisdiction under Section 482 CrPC, may quash the impugned FIR so as to keep away the sword of Damocles hanging on the head of the petitioners.

In response, learned counsel for the State has submitted that challan has been filed in Court. However, it is not disputed by the learned counsel for the State that the offence under Section 420 IPC is compoundable.

Learned counsel for respondents-2 and 3 has stated that he has no objection to the quashing of the FIR.

Harpal Singh – complainant (respondent-2) is present in Court and is identified by his counsel – Mr Tarun Gupta, Advocate. It is stated by the complainant that the matter has been compromised with the petitioners by him as also by Parveen Kumar – respondent-3 who is his father's younger brother's (Chaha's) son. It is stated that Tarsem Lal – petitioner-2 is his brother-in-law

(Jija) as his real sister is married to him. It is submitted that the matter has been compromised with the petitioners who are close relatives of the complainants. Besides, the statement has been made by him on his own free will and without any kind of pressure.

I have given my thoughtful consideration to the matter.

The petitioners are admittedly facing trial for the offence under Section 420 IPC. The FIR has been lodged on the complaint of respondents-2 and 3. They are closely related to each others. They have settled the dispute amongst themselves. Therefore, even tough the proceedings are pending, it would not affect the inherent jurisdiction of this Court under Section482 CrPC to quash the proceedings. In ***Sayeed Ishaque Memon v. Ansari Naseer Ahmed and another*** (2005) 12 SCC 140, the Supreme Court in a case under Section 138 of the Negotiable Instruments Act and Section 420 IPC after the conviction and sentence awarded against the appellant set aside the same in view of the compromise between the parties. Both the parties had filed a joint petition regarding the compromise that had been reached at. It was observed that the compromise was lawful and permission was accorded to compromise the dispute. This Court in ***Maan Singh v. State of Punjab*** 2004(3) RCR (Cr) 26, quashed the proceedings in exercise of jurisdiction under Section 482 CrPC in respect of offences under Sections 420, 467, 468 and 471 IPC. The dispute was over land and parties had settled the same with the intervention of the village Panchayat.

In the present case, the offence under Section 420 IPC is compoundable with the person cheated in terms of the provisions of Section 320(2) CrPC. Therefore, the matter having been amicably settled, the proceedings are liable to be quashed so as to put an end to the litigation.

The dispute is between close relatives inter se. Harpal Singh – complainant (respondent-2) has appeared in Court and submitted that Tarsem Lal (petitioner-2) is his brother-in-law (Jeeja) as his real sister is married to him. Therefore, no useful purpose would be served in continuing with the criminal proceedings especially when the parties on their own have settled the dispute and the offence under Section 420 IPC for which the petitioners have been charged is compoundable with the person cheated.

Accordingly, the criminal misc petition is allowed and the FIR 130 dated 3.8.2000 registered at Police Station, Banga for the offence under Section 420 IPC and all subsequent and consequential proceedings arising therefrom are quashed.

17.5.2007. (S.S.SARON)
ASR JUDGE